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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,669	01/11/2002	Alfonso Losada	SST-1305	8368
498	7590	12/11/2007		
JAMES R. CYPHER 405 14TH STREET SUITE 1607 OAKLAND, CA 94612			EXAMINER SAETHER, FLEMMING	
			ART UNIT 3677	PAPER NUMBER
			MAIL DATE 12/11/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/043,669

Applicant(s)

LOSADA, ALFONSO

Examiner

Flemming Saether

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-52 is/are pending in the application.
- 4a) Of the above claim(s) 6, 7, 13, 17, 18 and 26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-5, 8-12, 14-16, 19-25, 27-52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

Election/Restrictions

Claims 6, 7, 13, 17, 18, 24 and 26 remain in the application as having been non-elected.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 3-5, 8-12, 14-16, 19-23, 25, 27-52 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In each of the independent claims the amendment wherein "said grooves formed from at least two curved surfaces ... turning in opposite directions" is not understood. It is unclear what the "curves" refers to especially there when there two for only one groove. Also, it is unclear what "turning" refers to particularly when the groove has been defined a linear "turning" appears to be contradictory. Generally, the amended portion of the claims is in need of revision. The claims were examined as best understood.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 5, 8-12, 14, 16, 19, 25, 27, 31-33, 39, 40 and 44-46 are rejected under 35 U.S.C. 102(b) as being anticipated by Pfaff (US 2,961,210). Pfaff discloses a fastener assembly (31) comprising a plate (81) having a bearing surface (the lower

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surface of the plate) with an extending portion located opposite an uninterrupted groove (89, 90) formed in the top surface which extend the length of the plate and are capable of providing a guide means and; a stud (15) is held within the plate capable of being received in a nail gun and having a pointed end extending below the bearing surface. The plate further includes an attachment leg (33) and raised portion (63) which is capable of collapsing (at 66 or 86) to contribute to the bearing surface. The raised portion begin shown cylindrical in the vertical direction. In regards to claim 31, 32, 44 and 45 where the raised portion is not required to collapse and there is no required attachment leg. Pfaff further shows a straight and linear path for the grooves along at least a portion of their length.

Claims 1, 3-5, 8-12, 14-16, 20-23, 25, 27, 28, 33, 34, 39-41, 46 and 47 are rejected under 35 U.S.C. 102(b) as being anticipated by Losada (WO 98/47668). Applicant's prior publication discloses a fastener assembly feeding system comprising a plurality of unattached plates (318) each having a bearing surface (the upper surface of the plate) with an extending portion located opposite an uninterrupted groove (shown at where elements 382 are located in Fig. 13) formed in the "top" surface which extend the length of the plate and provide a guide means mating with a portion formed on a track (316). The plates further include an attachment leg (at 360) which extends in a plane parallel to the grooves and a stud (336) is held within the plate being received in a nail gun and having a pointed end extending below the bearing surface. A raised portion is

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show as the conical portion which engages the stud which is collapsed upon driving the stud to contribute to the bearing surface. Losada shows the grooves to be linear.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 48 is rejected under 35 U.S.C. 103(a) as being unpatentable over Losada as applied to claim 16, 46 and 47 above, and further in view of Pfaff. Losada does not disclose the raised portion as being cylindrical. Pfaff discloses a similar device and includes cylindrical raised portion (at 63 in the vertical direction). At the time the invention was made, it would have been obvious for one of ordinary skill in the art to provide the device of Losada with a cylindrical shaped raised portion as disclosed in Pfaff because the cylindrical shaped raised portion would better retain the stud by having more surface area for its engagement.

Allowable Subject Matter

Claims 29, 30, 35-38, 42, 43 and 49-52 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Remarks

After consideration of the amendments to the claims as accompanying remarks, the rejection as been maintained.

As regards Pfaff, Pfaff continues to be readable on the claims because the claims as amended do not require the grooves to be straight and linear along their entire length and since the grooves in Pfaff have at lease some straight and linear portion they still would anticipate the claims.

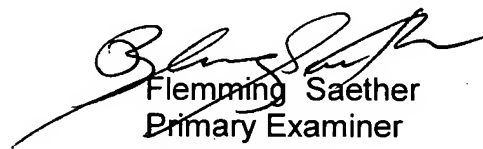
As regards Losada, Losada must be considered to still anticipate the claims since the amendment argued to define over Losada is indefinite. See the above 112 second paragraph rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Flemming Saether whose telephone number is 571-272-7071. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Flemming Saether
Primary Examiner
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